

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

STIRLING L. PORTER,)	
)	
Plaintiff,)	
)	Case No. 4:22-cv-842
v.)	
)	
)	
FEDEX FREIGHT INC., and)	
JEFFREY A. LEDEE,)	
)	
Defendants.)	

NOTICE OF REMOVAL

COME NOW Defendants FedEx Freight, Inc. and Jeffrey A. Ledee (collectively “Defendants”), by and through the undersigned counsel, pursuant to 28 U.S.C. §§ 1441 and 1446 and 28 U.S.C. § 1332, without waiving and expressly preserving all defenses under Rule 12(b) of the Federal Rules of Civil Procedure, and hereby remove this action from the Circuit Court of St. Louis County, Missouri to the United States District Court for the Eastern District of Missouri, Eastern Division. In support, Defendants state, allege and aver as follows:

I. FACTUAL BACKGROUND

1. This is a civil action currently pending in the Circuit Court of St. Louis County, Missouri under the case caption *Stirling Porter v. FedEx Freight, Inc., et al.*; Case No. 22SL-CC03260.

2. Defendants FedEx Freight, Inc. and Jeffrey A. Ledee have not filed an Answer to the state court Petition as of the filing of the instant removal.

3. Other than Plaintiff’s Petition, no other state court filing has been served upon Defendants FedEx Freight, Inc. and Jeffrey A. Ledee. A copy of the Petition is attached hereto as

Exhibit A. See 28 U.S.C. § 1446(a) (requiring that the removing defendant file copies of all process, pleadings, and orders served upon such defendant).

II. PROCEDURAL REQUIREMENTS FOR REMOVAL

4. The removing parties are Defendants FedEx Freight, Inc. and Jeffrey A. Ledee.

5. Plaintiff filed the Petition on or about April 20, 2021. Defendant FedEx Freight, Inc. was served on or about July 15, 2022, and Defendant Jeffrey A. Ledee was served on or about July 24, 2022. While preserving all available defenses under Rule 12 of the Federal Rules of Civil Procedures, this Notice of Removal is timely filed pursuant to 28 U.S.C. § 1446(b) because Defendants FedEx Freight, Inc. and Jeffrey A. Ledee filed this Notice of Removal within 30 days of the lawsuit being served on them.

6. Defendants FedEx Freight, Inc. and Jeffrey A. Ledee will file their Answer or otherwise respond to Plaintiff's Petition within the time limits set forth in F.R.C.P. 81(c).

7. Written notice of the filing of this Notice of Removal is concurrently being given to all adverse parties. A true and correct copy of this Notice of Removal and Notice of Filing of Notice of Removal are concurrently being filed with the Clerk of the Circuit Court of St. Louis County, Missouri, as required by 28 U.S.C. § 1446(d). A copy of this Notice of Filing of Notice of Removal is attached hereto as **Exhibit B**.

8. Defendants FedEx Freight, Inc. and Jeffrey A. Ledee have a right of removal where an action is brought in state court over which the district court has original jurisdiction. See 28 U.S.C. § 1441(a). As set forth below, this Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332.

III. DIVERSITY JURISDICTION: 28 U.S.C. § 1332

9. According to 28 U.S.C. § 1446(a), a notice of removal must contain a short and plain statement of the grounds for removal. Defendant's removal of this action is based upon diversity of citizenship pursuant to 28 U.S.C. § 1332.

10. 28 U.S.C. § 1332(a)(1) provides that "the district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000 and is between citizens of different States."

11. Plaintiff Stirling Porter is a citizen and resident of the State of Missouri (*See* Exhibit A, Plaintiff's Petition, ¶ 1).

12. Defendant FedEx Freight, Inc. is a foreign corporation. (*See* Exhibit A, Plaintiff's Petition, Caption, showing service address of Harrison, Arkansas). FedEx is an Arkansas corporation with its principal place of business in Tennessee.

13. Defendant Jeffrey A. Ledee is a resident of Fairview Heights, IL. (*See* Exhibit A, Plaintiff's Petition, ¶ 2)

14. Because Plaintiff is a resident/citizen of Missouri, Defendant FedEx Freight is a resident/citizen of Arkansas and Tennessee, and Defendant Ledee is a resident/citizen of Illinois, this action is between citizens of different states and/or countries.

15. The amount in controversy exceeds \$75,000. Plaintiff's Petition asserts a personal injury claim by Stirling Porter and alleges that the subject accident caused and/or will in the future cause Plaintiff "pain, suffering, mental anguish, and discomfort as a result of multiple injuries to his body; loss of his normal life; to obtain medical and other health care to treat his injuries thereby becoming indebted for same; disfigurement; and, has in the past, and will in the future, suffer

additional damages all in a sum in excess of Fifty Thousand Dollars (\$50,000.00).” (See Exhibit A, Plaintiff’s Petition, ¶¶ 8 and 19). Prior to filing the present lawsuit, Plaintiff, through his counsel, submitted a demand in which it was alleged that Plaintiff’s claimed medical bills arising out of the subject accident total \$126,047.54 and that the subject accident caused or contributed to cause Plaintiff to have a knee replacement.

16. Accordingly, this Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332, because the action is between citizens of different states and the amount in controversy exceeds \$75,000.

WHEREFORE, Defendants FedEx Freight, Inc. and Jeffre A. Ledee hereby give notice that this action is removed from the Circuit Court of St. Louis County, Missouri to the United States District Court for the Eastern District of Missouri, Eastern Division, and Defendants further request that this Court exercise jurisdiction over this action as though it had been originally instituted in this Court subject to Defendants’ right to answer or otherwise respond and assert all available defenses including but not limited to those defenses available under Rule 12 of the Federal Rules of Civil Procedures within the time limits set forth in F.R.C.P. 81(c).

Respectfully submitted,

FRANKE SCHULTZ & MULLEN, P.C.

/s/ Matthew M. Clifford

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**ATTORNEYS FOR DEFENDANTS FEDEX
FREIGHT, INC. AND JEFFREY A. LEDEE**

CERTIFICATE OF SERVICE

It is hereby certified that a copy of the above and foregoing was filed with the Court electronically and sent electronically via e-mail or U.S. Mail on this 11th day of August, 2022, to:

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